IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No. 1083 of 2006
Date of Decision: 30.10.2007

Sanjeev Kumar and others ...Petitioners

Versus

Shri Narinderjit Singh and others ...Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Manpreet Singh, Advocate, for the petitioners.

Shri G.S. Cheema, Senior DAG, Punjab.

Ms. Jyoti Sarin, Advocate, for Shri Om Parkash Chawla.

HEMANT GUPTA, J.

The petitioners have invoked the contempt jurisdiction of this Court while alleging violation of the order passed by this Court on 11.4.2005 in Civil Writ Petition No. 2197 of 2005.

It is the case of the petitioners that they were appointed on adhoc basis as Guest Faculty Lecturers in M.R. Government College, Fazilka. The petitioners were not being paid salary according to the pay scale which was being given to the regular incumbents nor were being paid the salary for the vacation period. The respondents also relieved them at the end of academic session. Therefore, the petitioners filed the aforesaid writ petition, inter-alia, praying for the minimum pay scale for the post of lectures and payment of consequential benefits including the salary for the vacation period. On 11.4.2005, this Court allowed the writ petition filed by the petitioners, but after returning a finding that such Guest Faculty

Lecturers are being appointed by the Principal of individual Colleges either through advertisement or through the Employment Exchange and had themselves conduct the process of selection. The appointment is not as per the provisions contained in Part XIV Chapter II of the Constitution of India that i.e. through Public Service Commission. It was also found that the funds for wages were being drawn from the Parent Teacher Association and thus, the employment is in the nature of private contract between the Parent Teacher Association on the one hand and the petitioners on the other hand. After returning such finding, the respondents were permitted to dispense with the services of the petitioners in case their services are no longer required. However, it was not open to the respondents to substitute the petitioners with other for the same purpose for which the petitioners have been engaged. The relevant directions read as under:-

> "It will, however, not be opened to the respondents to substitute the petitioners with others for the same purpose for which the petitioners have/had been engaged. As a matter of clarification, it may be stated that the nomenclature of the substitutes would be irrelevant, in other words engagement of employees as a matter of temporary arrangement (ad hoc, stop-gap, current duty, part-time, contractual, temporary etc.) so as to replace the petitioners, would not be permissible. In case the respondents desired to take work, in the same fashion as it is/was being taken from the petitioners, it would be imperative for the respondents to allow the petitioners to continue in their present assignments; or to re-induct them, in case their services have already been dispensed with. This direction will, however, be subject to one over-riding condition, namely, that it would be

> opened to the respondents to hold a regular process of selection by inviting applications from all eligible candidates."

The grievance of the petitioners is that they were appointed against vacant sanctioned post as adhoc lectures in the academic session 2004-05, but the petitioners have not been appointed subsequently, though the authorities have appointed Parveen Kumar, Manvinder Kaur and Gurpreet Kaur in the subjects of Physical Education, Zoology and Punjabi. The said appointments are stated to be against the directions given by this Court, disclosing a contempt.

In reply, it has been pointed out that the petitioners were called upon to join their duties vide letters dated 14.10.2005 (Annexures R.1 to R.3) but they failed to join their duties. All the writ petitioners, except three petitioners in the contempt petition, joined their duties. It is also pointed out that the petitioners joined the services in the Lala Jagat Narayan Education College, Jalalabad, and were drawing the salary of Rs.8000/- per month from B.Ed. College. Salary slips for the months of August, September and October, 2005 have been appended on record. It was also pointed out that the salary of Guest Faculty Lectures in the respondent-College is calculated according to lectures delivered by them and the maximum amount of salary may not exceed Rs.5000/- p.m. and that was the apparent cause of not joining their duties during Sessions 2005-06. The petitioners have illegally sought to reserve their rights of joining their duties from the next academic session i.e. 2006-07 and that the present contempt petition is nothing but abuse of process of law. Still further, it was pointed out that the petitioners submitted their applications afresh for appointment of Guest Faculty Lectures for the academic session 2006-07. The interviews

were held on 5.8.2006. Petitioner No. 1 attended the interview and was not selected. Petitioner Nos. 2 and 3 were not appointed as no vacancy was available as Ms. Manwinder Kaur and Ms. Gurpreet Kaur, who worked as Guest Faculty Lecturers in the subjects of Zoology and Punjabi for the academic session 2005-06 were permitted to continue for the next academic session as well. It was pointed out that the petitioners served as Guest Faculty Lecturers from 2.8.2004 to 19.2.2005 and thus, there is no violation of the orders passed by this Court.

In separate reply filed by Shri O.P. Chawla, the Principal of the College in 2005, it is pointed out that the orders passed by this Court dated 11.4.2005 were not received till 14.9.2005 when he relinquished the charge of the office as Principal of the College. However, on the telephonic instructions of the DPI, the petitioners were issued call letters by the College. Still further, it is pointed out that academic session of the College could not start in time on 6.7.2005 due to non availability of Guest Faculty Lecturers. The fresh appointments for the posts of Guest Faculty Lectures were made by the Parent Teacher Association on 6.7.2005. Had the petitioners approached the College in time at the start of academic session, the need for fresh appointment would not have arisen.

After having heard the learned counsel for the parties, I do not find that there is any violation of the orders passed by this Court. It is admitted by the learned counsel for the petitioners that on 11.4.2005, number of writ petitions were decided and that the Principal of the College in which the petitioners were appointed as Guest Faculty Lectures was not served with the notice of the petition nor was represented by an Advocate, at the time of the hearing of the writ petition. There is no averment in the

contempt petition to the effect as to when the order dated 11.4.2005 was ever communicated to the Principal of the College. It was on the basis of telephonic instructions from the DPI that the call letters were issued to the petitioners on 14.10.2005, but the petitioners did not join. The College authorities have, thus, made appointments as Guest Faculty Lectures, without any knowledge of the orders passed by this Court. Thus, it cannot be said that any of the actions of the respondents is disobedience, much less willful which may warrant initiation of proceedings under the Contempt of Courts Act, 1971.

Hence, the present petition is dismissed.

October 30, 2007 (HEMANT GUPTA)
ds JUDGE